

**AN ORDINANCE  
BY FINANCE/ EXECUTIVE COMMITTEE**

**10-0-1658**

**AN ORDINANCE WAIVING THE PAYMENT PROVISIONS CONTAINED IN THE CITY OF ATLANTA CODE OF ORDINANCES, ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, TO RATIFY THE PRIOR PROVISION OF COGNOS MAINTENANCE AND SUPPORT SERVICES BY INTERNATIONAL BUSINESS MACHINES UNDER AN EXPIRED AGREEMENT FOR THE PERIOD BEGINNING APRIL 1, 2010 THROUGH SEPTEMBER 30, 2010 FOR AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00); TO AUTHORIZE THE MAYOR OR HIS DESIGNEE TO ENTER INTO AN APPROPRIATE RENEWAL AGREEMENT WITH INTERNATIONAL BUSINESS MACHINES FOR COGNOS MAINTENANCE AND SUPPORT SERVICES BEGINNING OCTOBER 1, 2010 THROUGH MARCH 31, 2011 IN AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00) TO BE CHARGED TO AND PAID FROM FUND, DEPARTMENT, ORGANIZATION, AND ACCOUNT NUMBERS 1001 (GENERAL FUND) 050202 (IT APPLICATIONS) 5213001 (CONSULTING/PROFESSIONAL SERVICES - TECHNICAL) 1535000 (DATA PROCESSING/MANAGEMENT INFORMATION SYSTEMS); AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") ratified the prior provision of the Cognos Corporation ("Cognos") General Software License, Support and Service under the agreement executed for the period beginning May 31, 2005, pursuant to Ordinance number 08-O-0634, adopted by the Atlanta City Council on October 6, 2008 and approved by the Mayor on October 14, 2008; and

**WHEREAS**, Ordinance number 08-O-0634 also authorized the city to continue its relationship with Cognos and execute an Order Agreement under similar terms and conditions currently governing the parties, beginning November 1, 2008 and deploy software under the Order Agreement until November 29, 2010 ; and

**WHEREAS**, International Business Machines ("IBM") acquired Cognos on January 31, 2008; and

**WHEREAS**, the City has an ongoing need for the maintenance and support services; and

**WHEREAS**, the Chief Procurement Officer and the Chief Information Officer have determined that it is in the City's best interests to ratify the prior provision of services provided by IBM beginning April 1, 2010 to capture any contractual rights and remedies that would have been available to the City and to authorize payment for services rendered after contract expiration in an amount not to exceed Thirty Thousand Dollars and No Cents (\$30,000.00); and

**WHEREAS**, the Chief Procurement Officer and the Chief Information Officer recommend the execution of a renewal agreement with IBM for maintenance and support services beginning October 1, 2010 through March 31, 2011 in an amount not to exceed Thirty Thousand Dollars and No Cents (\$30,000.00); and

**WHEREAS**, all funds are to be charged to and paid from Fund, Department, Organization, and Account Numbers 1001 (General Fund) 050202 (IT Applications) 5213001 (Consulting/Professional Services - Technical) 1535000 (Data Processing/Management Information Systems); and

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:**

**SECTION 1:** that the City's actions in accepting and paying for Cognos support services provided by IBM from April 1, 2010 through September 30, 2010 are ratified and confirmed.

**SECTION 2:** that the Chief Financial Officer is authorized to remit payment to IBM for unpaid invoices for maintenance and support services incurred through September 30, 2010 in an amount not to exceed Thirty Thousand Dollars and No Cents (\$30,000.00), to be charged to and paid from Fund, Department, Organization, and Account Numbers 1001 (General Fund) 050202 (IT Applications) 5213001 (Consulting/Professional Services - Technical) 1535000 (Data Processing/Management Information Systems).

**SECTION 3:** that the Mayor is authorized to execute, on behalf of the City of Atlanta a renewal Agreement with IBM for Cognos maintenance and support services beginning October 1, 2010 through March 31, 2011 in an amount not to exceed Thirty Thousand Dollars and No Cents (\$30,000.00), to be charged to and paid from Fund, Department, Organization, and Account Numbers 1001 (General Fund) 050202 (IT Applications) 5213001 (Consulting/Professional Services - Technical) 1535000 (Data Processing/Management Information Systems).

**SECTION 4:** that the Chief Procurement Officer is directed to assist the City Attorney in the preparation of the appropriate Agreement for execution by the Mayor.

**SECTION 5:** that the agreement will not become binding on the City and the City will incur no obligation or liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney, and delivered to IBM.

**SECTION 6:** that Article X, Section 2-1212 (establishing the perquisite encumbrance of funds) of the City of Atlanta's Code of Ordinances is hereby waived to the extent that such applies to the payment for services provided after contract expiration.

**SECTION 7:** that all Ordinances or parts of Ordinances in conflict with this Ordinance are waived for this instance only.

**Part II: Legislative White Paper:** (This portion of the Legislative Request Form will be shared with City Council members and staff)

**A. To be completed by Legislative Counsel:**

**Committee of Purview:** FINANCE/EXECUTIVE

**Caption:**

**AN ORDINANCE WAIVING THE PAYMENT PROVISIONS CONTAINED IN THE CITY OF ATLANTA CODE OF ORDINANCES, ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, TO RATIFY THE PRIOR PROVISION OF COGNOS MAINTENANCE AND SUPPORT SERVICES BY INTERNATIONAL BUSINESS MACHINES UNDER AN EXPIRED AGREEMENT FOR THE PERIOD BEGINNING APRIL 1, 2010 THROUGH SEPTEMBER 30, 2010 FOR AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00); TO AUTHORIZE THE MAYOR OR HIS DESIGNEE TO ENTER INTO AN APPROPRIATE RENEWAL AGREEMENT WITH INTERNATIONAL BUSINESS MACHINES FOR COGNOS MAINTENANCE AND SUPPORT SERVICES BEGINNING OCTOBER 1, 2010 THROUGH MARCH 31, 2011 IN AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00) TO BE CHARGED TO AND PAID FROM FUND, DEPARTMENT, ORGANIZATION, AND ACCOUNT NUMBERS 1001 (GENERAL FUND) 050202 (IT APPLICATIONS) 5213001 (CONSULTING/PROFESSIONAL SERVICES - TECHNICAL) 1535000 (DATA PROCESSING/MANAGEMENT INFORMATION SYSTEMS); AND FOR OTHER PURPOSES.**

**Council Meeting Date:** October 4, 2010

**Requesting Dept.:** Information Technology

**B. To be completed by the department:**

**1. Please provide a summary of the purpose of this legislation (Justification Statement).**

DIT would to remit payment to IBM for unpaid invoices for maintenance and support services incurred from April 1, 2010 through September 30, 2010 in an amount not to exceed \$30,000.00 and a renewal Agreement with IBM for Cognos maintenance and support services beginning October 1, 2010 through March 31, 2011 in an amount not to exceed \$30,000.00.

**2. Please provide background information regarding this legislation.**

The City ratified the prior provision of the Cognos General Software License, Support and Service under the agreement executed for the period beginning May 31, 2005, pursuant to Ordinance number 08-O-0634, adopted by the Atlanta City Council on October 6, 2008 and approved by the Mayor on October 14, 2008; and Ordinance number 08-O-0634 also authorized the city to continue its

relationship with Cognos and execute an Order Agreement under similar terms and conditions currently governing the parties, beginning November 1, 2008 and deploy software under the Order Agreement until November 29, 2010.

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc)**  
Consulting/Maintenance/ Support
- (b) **Source Selection:** N/A
- (c) **Bids/Proposals Due:**
- (d) **Invitations Issued:**
- (e) **Number of Bids:**
- (f) **Proposals Received:**
- (g) **Bidders/Proponents:**
- (h) **Term of Contract:** 6 mos
- 4. **Fund Account:** 1001 (General Fund) 050202 (IT Applications) 5213001 (Consulting/Professional Services - Technical) 1535000 (Data Processing/Management Information Systems).
- 5. **Source of Funds:**
- 6. **Fiscal Impact:** \$60,000.00
- 7. **Method of Cost Recovery:**

**This Legislative Request Form Was Prepared By:** Kathleen Lane, DIT Compliance Analyst

## **Legislation Summary**

**Committee of Purview:**

**Caption**

**An ordinance authorizing the Mayor to execute an appropriate contractual agreement on behalf of the Department of Information Technology with International Business Machines ("IBM") in an amount not to exceed sixty thousand dollars and no cents (\$60,000.00). All contract work shall be charged to and paid from fund account and center number: 1001 (General Fund), 050202 (IT Applications), 5213001 (Consulting/Professional Services – Technical), 1535000 (Data Processing/Management Information Systems).**

**Council Meeting Date:** August 31, 2010

**Legislation Title:** Ordinance authorizing the Chief Procurement Officer to utilize in Pursuant to waive Article X ("The Procurement and Real Estate Code") of the Atlanta City Code to ratify the prior provision of Cognos Maintenance and Support Services by International Business Machines ("IBM") under an expired agreement for the period beginning April 1, 2010 through September 30, 2010 for an amount not to exceed thirty thousand dollars and no cents (\$30,000.00) and to Authorize the Mayor or His Designee to enter into an appropriate Renewal Agreement with International Business Machines ("IBM") for Cognos Maintenance and Support Services beginning October 1, 2010 through March 31, 2011 an amount not to exceed thirty thousand dollars and no cents (\$30,000.00) on behalf of the Department of Information Technology in an total amount not to exceed sixty thousand dollars and no cents (\$60,000.00). All contract work shall be charged to and paid from fund account and center number: 1001 (General Fund), 050202 (IT Applications), 5213001 (Consulting/Professional Services – Technical), 1535000 (Data Processing/Management Information Systems)

**Requesting Department:** Department of Information Technology

**Contract Type:** N/A

<b>Source Selection:</b>	<b>Waive Article X ("The Procurement and Real Estate Code") of the Atlanta City Code Ordinance</b>
<b>Bids/Proposals Due:</b>	<b>N/A</b>
<b>Invitations Issued:</b>	<b>N/A</b>
<b>Number of Bids/ Proposals Received:</b>	<b>N/A</b>
<b>Bidders/Proponents:</b>	<b>N/A</b>
<b>Justification Statement:</b>	<b>N/A</b>
<b>Background:</b>	<b>N/A</b>
<b>Fund Account Centers:</b>	<b>1001 (General Fund), 050202 (IT Applications), 5213001 (Consulting/Professional Services – Technical), 1535000 (Data Processing/Management Information Systems)</b>
<b>Source of Funds:</b>	<b>N/A</b>
<b>Fiscal Impact:</b>	<b>N/A</b>
<b>Term of Contract:</b>	<b>N/A</b>
<b>Method of Cost Recovery:</b>	<b>N/A</b>
<b>Approval:</b>	
<b>DOF:</b>	
<b>DOL:</b>	
<b>Prepared By:</b>	<b>Patricia Lowe, Buyer</b>
<b>Contact Number:</b>	<b>404.330.6583</b>

# International Business Machines Corporation

*International Business Machines Corporation, PO Box 643600, Pittsburgh, PA 15264-3600*



## IBM Software Quotation

Attn: Caroline Fooshee

City of Atlanta

55 Trinity Ave.

ATLANTA GA 30303

UNITED STATES

13-May-2010

Passport Advantage Agreement Number: 155381

IBM Customer Number: 1783864

Relationship SVP Level: GV

Passport Advantage Site Number: 7841899

Anniversary: 01-Jul

Quotation SVP Level: GV

Dear Customer:

Thank you for your inquiry regarding IBM Software.

Any and all prices herein are suggested prices only and are subject to change at IBM's sole discretion. Products listed herein are subject to withdrawal or modification by IBM at any time at IBM's sole discretion.

This quotation is valid from 12-May-2010 and will expire on 30-Jun-2010.

Your order will be governed by and is subject to the terms of your Passport Advantage Agreement or the Passport Advantage Express Agreement, as applicable, against which this transaction will be placed.

If you need assistance with placing your order or wish to discuss your quotation, please contact the IBM Representative noted below.

Yours sincerely,

Juan A. Lopez Jr

Phone Number: 1-203-682-0801

Fax Number: 1-203-682-0801

E-mail Address: [jlopez@us.ibm.com](mailto:jlopez@us.ibm.com)



# International Business Machines Corporation

International Business Machines Corporation, PO Box 643600, Pittsburgh, PA 15264-3600



Quotation Number: 15230876  
IBM Contact: Juan A. Lopez Jr  
Phone Number: 1-203-682-0801

Quote Effective Date: 12-May-2010  
Quote Expiration Date: 30-Jun-2010

Passport Advantage Agreement Number: 155381  
IBM Customer Number: 1783864  
Relationship SVP Level: GV

Passport Advantage Site Number: 7841899  
Anniversary: 01-Jul  
Quotation SVP Level: GV

Customer:  
Attn: Caroline Fooshee  
City of Atlanta  
55 Trinity Ave.  
ATLANTA GA 30303  
UNITED STATES

Payer: 7841899  
City of Atlanta  
55 Trinity Ave.  
ATLANTA GA 30303  
UNITED STATES

Item	Part Number	Quantity	Points	Unit SVP Price		Extended Amount
IBM Cognos 8 Business Intelligence Business Analyst Authorized User Annual SW Subscription & Support Renewal						
001	E0612LL	200	250.00	50.61	01-Apr-2010 - 31-Mar-2011	10,122.00
Subscription and Support						
IBM Cognos 8 Business Intelligence Business Author Authorized User Annual SW Subscription & Support Renewal						
002	E0615LL	200	250.00	50.62	01-Apr-2010 - 31-Mar-2011	10,124.00
Subscription and Support						
IBM Cognos 8 Business Intelligence Business Manager Authorized User Annual SW Subscription & Support Renewal						
003	E0618LL	200	250.00	50.62	01-Apr-2010 - 31-Mar-2011	10,124.00
Subscription and Support						
IBM Cognos 8 Business Intelligence Consumer Authorized User Annual SW Subscription & Support Renewal						
004	E061BLL	200	154.00	31.20	01-Apr-2010 - 31-Mar-2011	6,240.00
Subscription and Support						
IBM Cognos 8 Business Intelligence Professional Authorized User Annual SW Subscription & Support Renewal						
005	E060TLL	200	576.00	116.95	01-Apr-2010 - 31-Mar-2011	23,390.00
Subscription and Support						

Useful/Important Web resources:

Passport Advantage information, customer secure site access, training, etc.: [ibm.com/software/passportadvantage](http://ibm.com/software/passportadvantage)

IBM's International Program License Agreement and product License Information documents: [ibm.com/software/sla](http://ibm.com/software/sla)

IBM Software Support Web site: [ibm.com/software/support](http://ibm.com/software/support)

IBM Customer Number: 1783864

*International Business Machines Corporation, PO Box 643600, Pittsburgh, PA 15264-3600*



Item	Part Number	Quantity	Points	Unit SVP Price		Extended Amount
Applicable tax will be recalculated at the time of order processing.						
<b>Total Points: 1,480.00</b>					<b>Subtotal in USD:</b>	<b>60,000.00</b>
					<b>Total in USD:</b>	<b>60,000.00</b>
Your order is governed by and subject to the terms of your Passport Advantage Agreement or the Passport Advantage Express Agreement, as applicable, against which this transaction will be placed.						

IBM's International Program License Agreement: [ibm.com/software/passportadvantage](http://www.ibm.com/software/passportadvantage)

IBM's International Program License Agreement and product License Information documents: [ibm.com/software/sla](http://ibm.com/software/sla)

IBM Software Support Web site: [ibm.com/software/support](http://ibm.com/software/support)

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**AMENDMENT NO. 1  
TO  
ORDER AGREEMENT**

This Amendment No. 1 ("Amendment No. 1"), effective as of March 31, 2009 ("Amendment No. 1 Effective Date"), sets forth the understanding between **International Business Machines Corporation** (formerly Cognos Corporation) ("IBM") and the **City of Atlanta** ("Licensee") and amends the Order Agreement by and between Cognos Corporation and Licensee effective November 30, 2006 (the "Order Agreement"). All capitalized terms not otherwise defined in this Amendment No. 1 shall have the same meanings as set forth in the Order Agreement. In the event of any conflict between the provisions of the Order Agreement and the provisions of this Amendment No. 1, the provisions of this Amendment No. 1 shall govern.

1. Assignment. Pursuant to Section 12.4 of the Cognos General Software License, Support and Services Terms by and between Cognos Corporation and the Licensee effective May 31, 2005 (the "Terms"), the Order Agreement is assigned from Cognos Corporation to IBM and IBM hereby assumes all rights and responsibilities set forth in the Order Agreement.

2. Amendment. Pursuant to Section 12.7 of the Terms, the parties hereby agree to amend the Order Agreement as follows:

- a. The "Anonymous Users" license set forth in Section 2 of the Order Agreement is suspended for two (2) years commencing upon the Amendment No. 1 Effective Date (the "Suspension Term") and is replaced with a license for up to 200 Named Users during the Suspension Term. A "Named User" means an individual who is authorized by Licensee to use the specified Software, deployed through a corresponding Related Server, whether or not that individual is logged on to that Software. Licensee, in its sole discretion, may terminate the Suspension Term at any time prior to its expiry upon 30 days written notice to IBM.
- b. Licensee shall report the number of Named Users deployed as of the Amendment No. 1 Effective Date within 30 days of the Amendment No. 1 Effective Date. During the Suspension Term, Licensee shall on each January 31 and each July 31 report in writing the number of Named Users deployed during the previous six months and the total aggregate number deployed during the Suspension Term. If at any time during the Suspension Term Licensee deploys more than 200 Named Users in the aggregate, the Suspension Term shall be immediately terminated.
- c. Section 7 (iii) of the Order Agreement is deleted and replaced with: "The annual Support service fee for standard support services for the annual support service term beginning on the Amendment No. 1 Effective Date and the anniversary of the Amendment No. 1 Effective Date for the Software licensed under the Order Agreement shall be \$60,000.00 per year. For the next two consecutive annual terms of paid support services thereafter, the annual Support services fee for the Software licensed under the Order Agreement may not increase by an amount in excess of the percentage increase in the Consumer Price Index for the immediately preceding year." During the Suspension Term and any subsequent uninterrupted consecutive paid annual support term thereafter IBM hereby waives any otherwise applicable support reinstatement fees with respect to the support of such Software.
- d. During the Suspension Term, Section 7 (iv) of the Order Agreement is suspended and shall not apply.
- e. Upon the earlier of expiration or termination of the Suspension Term, the Anonymous Users license set forth in Section 2 of the Order Agreement shall immediately be reinstated; the above granted license of up to 200 Named Users shall immediately be terminated; Section 7(iv) of the Order Agreement shall immediately

be reinstated in accordance with its original provisions as set forth in the Order Agreement and the Site Term shall not be updated or modified by the reinstatement; and the annual support amount set forth in subsection "c" above shall immediately be increased from \$60,000.00 to \$340,000.00 (and Licensee shall upon receipt of invoice pay the pro-rata portion of such annual support fee due for the remainder of the then current annual support term as applicable).

f. The last sentence of Section 5 of the Order Agreement is hereby deleted.

The Order Agreement as hereby amended shall remain in full force and effect in accordance with its terms. By signing in the space indicated below, the corresponding authorized representatives of the parties have indicated agreement on behalf of the parties to the terms of this Amendment No. 1 as set forth herein.

**INTERNATIONAL BUSINESS MACHINES  
CORPORATION**

By: Gordon Burnett  
Print Name: Gordon Burnett  
Title: Client Manager  
Date: 3/31/09

**CITY OF ATLANTA**

By: Greg Giomelli  
Print Name: Greg Giomelli  
Title: Chief Operating Officer  
Date: \_\_\_\_\_

By: Dan Smith  
Print Name: Dan Smith  
Title: Chief Information Officer  
Date: 4/14/09

By: Adam L. Smith  
Print Name: Adam L. Smith, CPPB  
Title: Chief Procurement Officer  
Date: 4/20/09

**APPROVED AS TO FORM**

By: Angela M. Hinton  
Print Name: Angela M. Hinton  
Title: Senior Assistant City Attorney  
Date: 4/20/2009

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Kathleen Lane

Contact Number: 404-335-1983

Originating Department: Department of Information Technology

Committee(s) of Purview: Finance/Executive Committee

Chief of Staff Deadline: August 31, 2010

Anticipated Committee Meeting Date(s): September 15 & 29, 2010

Anticipated Full Council Date: October 4, 2010

Legislative Counsel's Signature: [Signature]

Commissioner Signature: [Signature]

Chief Procurement Officer Signature: [Signature]

CAPTION

AN ORDINANCE WAIVING THE PAYMENT PROVISIONS CONTAINED IN THE CITY OF ATLANTA CODE OF ORDINANCES, ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, TO RATIFY THE PRIOR PROVISION OF COGNOS MAINTENANCE AND SUPPORT SERVICES BY INTERNATIONAL BUSINESS MACHINES UNDER AN EXPIRED AGREEMENT FOR THE PERIOD BEGINNING APRIL 1, 2010 THROUGH SEPTEMBER 30, 2010 FOR AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00); TO AUTHORIZE THE MAYOR OR HIS DESIGNEE TO ENTER INTO AN APPROPRIATE RENEWAL AGREEMENT WITH INTERNATIONAL BUSINESS MACHINES FOR COGNOS MAINTENANCE AND SUPPORT SERVICES BEGINNING OCTOBER 1, 2010 THROUGH MARCH 31, 2011 IN AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS AND NO CENTS (\$30,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00) TO BE CHARGED TO AND PAID FROM FUND, DEPARTMENT, ORGANIZATION, AND ACCOUNT NUMBERS 1001 (GENERAL FUND) 050202 (IT APPLICATIONS) 5213001 (CONSULTING/PROFESSIONAL SERVICES - TECHNICAL) 1535000 (DATA PROCESSING/MANAGEMENT INFORMATION SYSTEMS); AND FOR OTHER PURPOSES.

Mayor's Staff Only

Received by CPO: \_\_\_\_\_ (date) Received by LC from CPO: \_\_\_\_\_ (date)

Received by Mayor's Office: [Signature] (date) Reviewed by: [Signature] (date)

Submitted to Council: \_\_\_\_\_